



DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-82,286

OSHKOSH DEFENSE
A DIVISION OF OSHKOSH CORPORATION
INCLUDING ON-SITE LEASED WORKERS FROM ACONTEMPS,
ADVANTAGE FEDERAL RESOURCING, AEROTEK, CADRE, DYNCORP
INTERNATIONAL, EDCI IT SERVICES, LLC, LANDMARK STAFFING
RESOURCES, INC., LARSEN AND TOUBRO LIMITED, MRI NETWORK/MANTA
RESOURCES, INC., OMNI RESOURCES, PREMIER TEMPORARY STAFFING,
RETZLAFF PARTS AND REPAIR, ROMAN ENGINEERING, STRAIGHT SHOT
EXPRESS, INC., TEKSYSTEMS, AND LABOR READY
OSHKOSH, WISCONSIN

Notice of Negative Determination
on Reconsideration

On April 29, 2013, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Oshkosh Defense, a division of Oshkosh Corporation, Oshkosh, Wisconsin (hereafter referred to as "Oshkosh Defense" or "the subject firm"). Workers at the subject firm were engaged in activities related to the production of, and administrative functions in support of, military, logistical, and tactical vehicles, and diverse products for airport products and commercial group (i.e., H-Broom, H-Blower, H-Tractor, P-Series Snow Removal Vehicle, S-Series Front Discharge Cement Mixers and AARF axles), including component parts. The workers are not separately identifiable by article produced. The subject worker group includes workers at various facilities in Oshkosh, Wisconsin who are engaged in production of, and administrative functions in support of, the articles produced by the subject firm.

The subject worker group also includes on-site leased workers from Acountemps, Advantage Federal Resourcing, Aerotek, Cadre, Dyncorp International, EDCi IT Services, LLC, Landmark Staffing Resources, Inc., Larsen and Toubro Limited, MRI Network/Manta Resources, Inc., Omni Resources, Premier Temporary Staffing, Retzlaff Parts and Repair, Roman Engineering, Straight Shot Express, Inc., Teksystems, and Labor Ready.

The petitioner alleges that workers were impacted by increased imports of component parts like or directly competitive with those produced at the Oshkosh, Wisconsin facility.

The initial investigation resulted in a negative determination based on the Department's findings that the subject firm did not import like or directly competitive articles, and did not import finished articles using like or directly competitive foreign-produced component parts.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that Oshkosh Defense did not shift the production of military, logistical, and tactical vehicles, or like or directly competitive articles, to a foreign country or acquire the production of such articles from a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that Oshkosh Defense is not a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act, have not been satisfied because the workers' firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

In the request for reconsideration, the petitioner alleged that the Department has issued a determination for a worker group other than the one identified by the United Auto Workers, Local 578 (UAW-578) in its petition. Specifically, UAW-578 asserts that the subject firm is Oshkosh Corporation and that it has a collective bargaining agreement with Oshkosh Corporation. UAW-578 also alleges that the Department has misunderstood the articles produced at the subject facility. Specifically, UAW-578 asserts that the subject facility produces articles for both military and commercial use. UAW-578 further alleges that an article or a component part for military use is like or directly competitive with the same one for commercial use.

During the reconsideration investigation, the subject firm company official confirmed that, in addition to the production of, and administrative functions in support of military, logistical, and tactical vehicles, the workers of the subject firm also produced diverse products for airport products and commercial group (i.e., H-Broom, H-Blower, H-Tractor, P-Series Snow Removal Vehicle, S-Series Front Discharge Cement Mixers and AARF axles).

The reconsideration investigation also revealed that "Oshkosh Defense" is the only division within Winnebago county that UAW-578 represents and that "Oshkosh Defense" is the only entity related to Oshkosh Corporation that employs members of UAW-578. Further, the reconsideration investigation revealed that the "access equipment" and "fire and emergency" unit have not in the past or present been located in the Oshkosh, Wisconsin area, and that these articles are produced in other parts of the country.

The reconsideration investigation further revealed that the subject firm has not imported any articles or services like or directly competitive with the production of, and administrative functions in support of military, logistical, and tactical vehicles, and diverse products for airport products and commercial group (i.e., H-Broom, H-Blower, H-Tractor, P-series Snow Removal Vehicle, S-Series Front Discharge Cement Mixers and AARF axles) produced or performed by the workers of the subject firm.

The reconsideration investigation also revealed that the subject firm does not import any finished products that incorporate an article or services like or directly competitive with the articles produced or services supplied by the subject firm. Because almost all of the products manufactured by Oshkosh Defense are supplied to the United States military, no customer survey of imports was conducted.

In addition, the reconsideration investigation revealed that the subject firm did not shift production or services like or

directly competitive with the administrative services and military, logistical, and tactical vehicles, and diverse products for airport products and commercial group (i.e., H-Broom, H-Blower, H-Tractor, P-Series Snow Removal Vehicle, S-Series Front Discharge Cement Mixers and AARF axles) produced or supplied by the workers of the subject firm, and did not acquire articles or services like or directly competitive with the administrative services and military, logistical, and tactical vehicles, and diverse products for airport products and commercial group (i.e., H-Broom, H-Blower, H-Tractor, P-Series Snow Removal Vehicle, S-Series Front Discharge Cement Mixers and AARF axles) from a foreign country.

During the reconsideration investigation, the subject firm addressed a newspaper article submitted by the petitioner which stated, in part, that Oshkosh Corporation was "bringing work back to the factory that was outsourced - a move that saved 165 production jobs." Specifically, the subject firm confirmed that when production needs extended capacity, the work was "outsourced" to local (domestic) vendors.

The Department notes that the fore-mentioned article started with the statement "Faced with deep cuts in U.S. military spending, and the end of the wars in Iraq and Afghanistan, Oshkosh Corp. is laying off 900 employees in its defense division" and stated that the "Department of Defense is reining in spending." The article also states that the subject firm has facilities in other states that are able to produce similar or directly competitive articles.

During the reconsideration investigation, the subject firm also addressed the petitioner's allegation that Oshkosh Corporation imports specific parts (i.e., "exhibit f"). The subject firm confirmed that the parts at issue have never been manufactured by an Oshkosh Defense facility and have always been procured from a foreign country. The subject firm also confirmed that the imported parts are in articles that constitute a negligible percentage of Oshkosh Corporation production.

With respect to Section 222(b)(2) of the Act, the reconsideration investigation confirmed that Oshkosh Defense is not a Supplier or Downstream Producer to a firm (or subdivision, whichever is applicable) that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a).

Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. § 2272, have not been met and, therefore, affirm the denial of the petition for group eligibility of Oshkosh Defense, a division of Oshkosh Corporation, Oshkosh, Wisconsin, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. § 2273.

Signed in Washington, D.C. on this 26th day of July, 2013

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

[FR Doc. 2013-19544 Filed 08/12/2013 at 8:45 am; Publication
Date: 08/13/2013]